

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

In re:

Case No. 09-72010

RICHARD A. BURBO,

Chapter 13

Debtor.

Judge Thomas J. Tucker

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**ORDER DENYING DEBTOR'S EX-PARTE MOTION TO REINSTATE
CHAPTER 13 CASE**

This case is before the Court on Debtor's motion entitled "Ex Parte Motion To Set Aside Dismissal and Reopen Case to File Missing Voluntary Petition" (Docket # 11, the "Motion"), which this Court construes as a motion for reconsideration of the Court's October 20, 2009 Order dismissing this case ("October 20 Order")(Docket # 10), or alternatively, as a motion for relief from the Court's October 20 Order.

The Court has reviewed and considered the Motion, and finds that the Motion fails to demonstrate a palpable defect by which the Court and the parties have been misled, and that a different disposition of the case must result from a correction thereof. *See* Local Rule 9024-1(a)(3).

In addition, the Court notes the following. First, the allegations in the Motion do not establish any valid ground for relief from the order dismissing this case under Fed.R.Bankr.P. 9024 and Fed.R.Civ.P. 60(b).

Second, as indicated in the Court's October 20 Order, because no voluntary petition was filed, no case was commenced. The Court cannot reinstate a case that was never commenced in the first place. Debtor's only remedy is to file a new case, by filing a proper voluntary petition.

Accordingly,

IT IS ORDERED that the Motion (Docket # 11), is DENIED.

Signed on October 22, 2009

/s/ Thomas J. Tucker
Thomas J. Tucker
United States Bankruptcy Judge